

ESTTA Tracking number: **ESTTA734312**Filing date: **03/17/2016**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding.	92060840
Applicant	Defendant mPhase Technologies, Inc.dba mPower Technologies, Inc.
Other Party	Plaintiff MPOWERED Inc.
Have the parties held their discovery conference as required under Trademark Rules 2.120(a)(1) and (a)(2)?	No

Motion for an Extension of Answer or Discovery or Trial Periods With Consent

The Defendant's Time to Answer is currently set to close on 03/17/2016. mPhase Technologies, Inc.dba mPower Technologies, Inc. requests that such date be extended for 30 days, or until 04/16/2016, and that all subsequent dates be reset accordingly.

Time to Answer :	04/16/2016
Deadline for Discovery Conference :	05/16/2016
Discovery Opens :	05/16/2016
Initial Disclosures Due :	06/15/2016
Expert Disclosure Due :	10/13/2016
Discovery Closes :	11/12/2016
Plaintiff's Pretrial Disclosures :	12/27/2016
Plaintiff's 30-day Trial Period Ends :	02/10/2017
Defendant's Pretrial Disclosures :	02/25/2017
Defendant's 30-day Trial Period Ends :	04/11/2017
Plaintiff's Rebuttal Disclosures :	04/26/2017
Plaintiff's 15-day Rebuttal Period Ends :	05/26/2017

The grounds for this request are as follows:

- *Parties are engaged in settlement discussions*
- *With the consent of Petitioner, Respondent Requests an additional thirty day extension of the time to respond to the petition to cancel Respondent's trademark. The parties have been in discussion, directly, and through their counsel, since the filing of the cancellation petition. Petitioner has changed counsel in this matter. E-mails concerning settlement terms have been exchanged with prior and current counsel, with the latest proposal for settlement sent by Petitioner's attorney to Respondent's attorney on February 24, 2016. For the last three weeks, respondent's undersigned counsel has been undergoing a series of medical tests for what appears to be very serious medical condition. Nevertheless, additional information has been exchanged between counsel that should facilitate settlement. This request is not filed for purposes of delay. The parties are engaged in serious settlement discussions and submit that the extension of time may save the resources of both the parties and the Board. Further, the parties continue to believe that settlement of this matter is possible, appropriate and in the best interest of the parties. It is respect-*

fully requested that the time to answer be extended by thirty days to April 16, 2016, and that all subsequent dates be extended by 30 days as follows: Time to Answer : 04/16/2016 Deadline for Discovery Conference : 05/16/2016 Discovery Opens : 05/16/2016 Initial Disclosures Due : 06/15/2016 Expert Disclosure Due : 10/13/2016 Discovery Closes : 11/12/2016 Plaintiff's Pretrial Disclosures : 12/27/2016 Plaintiff's 30-day Trial Period Ends : 02/10/2017 Defendant's Pretrial Disclosures : 02/25/2017 Defendant's 30-day Trial Period Ends : 04/10/2017 Plaintiff's Rebuttal Disclosures : 04/26/2017 Plaintiff's 15-day Rebuttal Period Ends : 05/26/2017 mPhase Technologies, Inc.dba mPower Technologies, Inc. has secured the express consent of all parties to this proceeding for the extension and resetting of dates requested herein. mPhase Technologies, Inc.dba mPower Technologies, Inc. has provided an e-mail address herewith for itself and for the opposing party so that any order on this motion may be issued electronically by the Board.

mPhase Technologies, Inc.dba mPower Technologies, Inc. has secured the express consent of all other parties to this proceeding for the extension and resetting of dates requested herein.

mPhase Technologies, Inc.dba mPower Technologies, Inc. has provided an e-mail address herewith for itself and for the opposing party so that any order on this motion may be issued electronically by the Board.

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Facsimile or email (by agreement only) on this date.

Respectfully submitted,

/David Aker/

David Aker

daker@ogrp.com

david.kelly@kelly-ip.com,Linda.McLeod@kelly-ip.com,jacob.mersing@kelly-ip.com,Larry.White@kelly-ip.com
03/17/2016